

Town Scores High on Title 5 Inspections

By CHRIS PECK

Duxbury property owners have been scoring a better than average passing record on the dreaded Title 5 septic system inspections because long before the state got tough, the town got tougher.

Approaching the end of the first year of Title 5 restrictions, about 14 percent of the septic system in Duxbury failed inspection, meaning those houses or commercial properties could not be sold as is, according to Health Officer Mary Thomas.

While that may sound high, she says it falls well below the state's average of 23 to 24 percent, a figure supplied by the Department of Environmental Protection.

And for that extra 10 percent who are passing inspection, it could be a savings of up to \$5,000 to

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Septic problems on Bluefish River have been addressed.

\$9,000 that homeowners would otherwise have to dig up just to be able to sell those houses, according to Kevin McDonald, the outgoing head of the Department of Inspectional Services. McDonald is leaving for a similar position in Chatham.

The town is earning a better than average score because Duxbury has required tougher standards than the state and began enforcing those tough standards in 1990 — about 5 years before the state mandated inspections, according to McDonald.

The impact of the state's Title 5 regulations, which went into effect March 30 of last year, was about as expected, McDonald said.

"At first we didn't know. We thought, Oh my Lord, what if half the septic systems in town fail and we really put the kibosh on real estate sales," he said. "But it was pretty much as we expected, that the failure rate wasn't that bad," he added.

Carol Nappellio, the manager of DeWolfe New England, the largest volume real estate sales office in Duxbury, said the Title 5 restrictions had about a 10 percent impact on sales. Most of that occurred in the first half of the year, shortly after the law went into effect, she added.

She said the reasons for the reduced sales ranged from some sellers fearing the new law and pulling their homes off the market to some failing the state's certification test and deciding not to spend money to fix the system.

Much of that has changed in the real estate sales business now, Nappellio said.

"As we went down the road we found it was not a problem. It was very scary in the beginning but now we have spent a lot of time learning about the solutions."

Sellers often found the solutions were not as expensive as anticipated, according to the real estate manager.

"We ask the seller if you are really serious about selling your property to have the certification done in advance," Nappellio said.

McDonald and Thomas say the newer homes certainly have a better chance of getting certification, especially if they were built after 1990. That is when Duxbury officials conducted hearings and adopted supplemental regulations to make the septic system standards tougher and to spell out exactly how they should be followed.

"Duxbury's supplemental rules and regulations required more of a distance in the separation of the bottom of the system from the water table," Thomas explained.

She said most of the statewide failures were due to the "soil absorption systems being in the water table."

While the state demanded a 4-foot separation between the bottom of the system and the top of the water table in 1991, Duxbury told builders to place the septic systems 6 feet above groundwater.

McDonald said more importantly the town required a minimum complying system — basically the septic tank, distribution box and leaching field — for anyone who wanted to get a building permit after 1990. That not only affected new construction but any property owners wanting to make improvements. The minimum system also had to meet size requirements based on the size and type of building.

The tougher septic system requirements and the demand by the town that they be met, sent the number of town issued permits from the usual 30 to 40 a year to about 150 a year over the 5-year period while many of these systems became upgraded, according to McDonald.

Once the state's Title 5 kicked in last year, all property owners were required to pass a state certified inspection of their septic system in order to sell the property and to legally pass title. That raised the number of inspections in 1995 to 204, up from 151 in 1994. The increase put a strain of added work on the health department but it wasn't at the crisis level.

Of the 242 inspections made since March 30, only 35 systems failed, 3 received a conditional pass and one was still being considered.

McDonald said if someone were required to install a new, minimally complying system, it would cost between \$5,000 and \$9,000. But some homeowners would merely need to add a component to win certification. He offered the example of adding the septic tank itself to be placed on line where an outdated cesspool exists. That should only cost a few thousand dollars, according to the inspection department chief.

The mandatory inspections required by the state are what scared sellers the most.

"In Title 5, the inspection process is the thing that triggered most of the uproar," according to the health officer. Thomas said, "It was the first time the home buyer was protected."

McDonald said he did not consider the inspections a hardship for homeowners, adding that horrendous stories of \$30,000 expenditures are the exception rather than the rule.

"You hear about that retired couple who can't sell their house. Well, I suppose it depends on which side of the fence you are on," he said. "What about that young

couple who wants to buy the house. Should they have to incur the \$9,000 expense because the septic system failed," McDonald said.

The state tightened some of its own restrictions with the new code. In March of 1995, the Commonwealth required septic systems be placed 5 feet above the ground water in soil that percolates 2 minutes or less per inch. In soil that percolates greater than 2 minutes per inch, the state required a 4 foot separation.

Duxbury changed its standards too in October of 1995, but they were still tougher than the state's, 6 feet where the state requires 5 and 5 feet where the state requires 4.

"The fact that Duxbury is sitting on its own source aquifer, I'm sure the Board of Health thought it would be added protection," according to Thomas. "There is more filtration the higher up you get," she added.

While previously, home buyers could hire a home inspection service to check the septic system, Thomas said that check up was not as tough as what the state requires now.

"A home inspector doesn't inspect the way a system inspector does," she said. "The system inspector is trained by DEP and has to pass a course given by DEP."

The added work load all of these certifications required the health department to hire 3 part-time inspectors to assist Thomas. They also work for the Department of Inspectional Services, the umbrella agency overseeing the health department. There was also a lot more filing space needed for the additional documentation.

When the law first took effect, Thomas said her office was swamped with real estate agents trying to get information for their customers. She said they had to learn about these regulations in a matter of weeks and it was a difficult time for everyone.

Sometime later Thomas was an invited guest at a real estate agency's Title 5 seminar. And when the health officer was introduced the real estate representative said, "No one in this room is going to heaven unless Mary Thomas approves it." Thomas said she laughed and felt relieved that people were able to joke about all the fuss.